

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JILL JURGESS,

Plaintiff,

Case No. 05-71241

v.

District Judge Denise Page Hood  
Magistrate Judge R. Steven Whalen

LOWE'S HOME CENTERS, INC.,  
a Foreign Corporation,

Defendant.

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**ORDER**

Before the Court is Plaintiff's Motion to Allow Opinion Testimony from Treating Physician and to Require Defendant to Pay a Reasonable Fee for the Discovery Deposition of the Treating Physician [Docket #12], which has been referred for hearing and determination pursuant to 28 U.S.C. §636(b)(1)(A). For the reasons and under the terms stated on the record on January 31, 2006, Plaintiff's Motion is GRANTED IN PART AND DENIED IN PART, as follows:

1. Plaintiff's treating physician, Dr. Poetschke, will be permitted to testify as an expert witness under FRE 702, and may render opinion testimony related to her treatment of the Plaintiff, including the issue of causation.

2. As a "fact" expert witness, as opposed to a retained expert, Dr. Poetschke may

testify without Rule 26(a)(2)(B) expert report disclosures.

3. If the Defendant deposes Dr. Poetschke, the deposition witness fee shall be \$40.00, pursuant to 28 U.S.C. §1821.

4. Defendant's request for fees and costs is DENIED.

SO ORDERED.

S/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: January 31, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on January 31, 2006.

S/Gina Wilson  
Judicial Assistant